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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,569	02/05/2002	Dusan Miljkovic	STI.001A	5844

20995 7590 03/09/2004

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EXAMINER

GEORGE, KONATA M

ART UNIT PAPER NUMBER

1616

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/067,569	MILJKOVIC ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Konata M. George	1616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 12-16, 30-47, 53-57 and 60-64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 17-29, 48-52, 58 and 59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Claims 1-64 are pending in this application.

#### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on August 16, 2002 and November 4, 2002 was noted and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement. The IDS filed on November 4, 2002 states that there are three sheets of references, however, examiner has received only two. Applicant is advised to submit the third sheet of the IDS so that those references can be considered.

#### ***Drawings***

2. The drawing(s) filed February 5, 2002 are approved by the Draftsperson under 37 CFR 1.184 or 1.152.

#### ***Restriction Requirement***

3. Applicant's election without traverse of Group 1, claims 1-11, 17-29, 48-52, 58 and 59 is acknowledged.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 7-9 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Policappelli et al. (US 5,612,039).

Policappelli et al. discloses a dietary supplement for maintaining weight condition and for losing weight. The present invention comprises taking several different compositions before each meal. The compositions contain three basic ingredients: bean protein, guggul, and java tea (col. 2, lines 36-40). Column 2, lines 55-65 teaches two compositions one to be taken before lunch contain the three basic ingredients together with galactomannan or glucomannan and grapefruit pectin and the other to be taken before dinner comprising the three basic ingredients together with brown algae and 10% grapefruit pectin. Column 3, lines 36-42 teach a fourth composition for lunch and dinner that contains pineapple dry extract. Column 10, lines 1-20 describes how the composition can be formulated and used.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-9, 11, 17-29, 48-52, 58 and 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Drunnen et al. (US 6,572,915 B1).

Drunnen et al. discloses a process that includes the selective extraction of antioxidants from agricultural waste and returning them to food products, drinks or nutritional supplements (col. 1, lines 50-54). Examples of agricultural waste products are coffee cherries (col. 1, lines 55-64). Column 2, lines 18-48 teach a process by which the antioxidants are extracted.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10 and 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Policappelli et al. (US 5,612,039).

Policappelli et al. discloses a dietary supplement for maintaining weight condition and for losing weight. The present invention comprises taking several different compositions before each meal. The compositions contain three basic ingredients: bean protein, guggul, and java tea (col. 2, lines 36-40). Column 2, lines 55-65 teaches

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two compositions one to be taken before lunch contain the three basic ingredients together with galactomannan or glucomannan and grapefruit pectin and the other to be taken before dinner comprising the three basic ingredients together with brown algae and 10% grapefruit pectin. Column 3, lines 36-42 teach a fourth composition for lunch and dinner that contains pineapple dry extract. Column 10, lines 1-20 describes how the composition can be formulated and used. The prior art does not teach processing the tropical fruit by employing a detoxification method.

It would have been obvious to one ordinary skill in the art to use an extract of a tropical fruit that was processed by a method to remove any impurities and toxins. This would have been obvious since the extract is going to be used for human consumption.

### ***Conclusion***

7. Claims 1-11, 17-29, 48-52, 58 and 59 are rejected.

### ***Telephone Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is (571) 272-0613. The examiner can normally be reached from 8AM to 5:30PM Monday to Thursday, and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached at (571) 272-0602. The fax phone numbers

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It would have been obvious to one ordinary skill in the art to use an extract of a tropical fruit that was processed by a method to remove any impurities and toxins. This would have been obvious since the extract is going to be used for human consumption.

### ***Conclusion***

7. Claims 1-11, 17-29, 48-52, 58 and 59 stand rejected.

### ***Telephone Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is (571) 272-0613. The examiner can normally be reached from 8AM to 5:30PM Monday to Thursday, and on alternate Fridays.

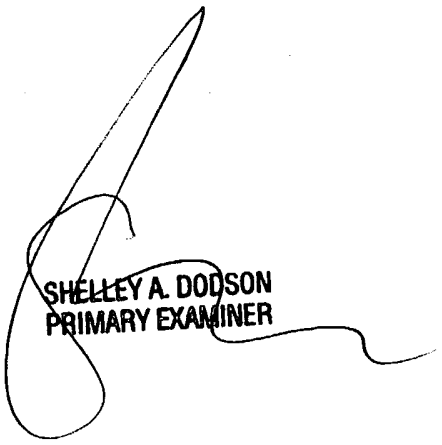
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached at (571) 272-0602. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Konata M. George



**SHELLEY A. DODSON  
PRIMARY EXAMINER**